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BEFORE THE ARIZONA CORPORATION COMMISSION**COMMISSIONERS**

SUSAN BITTER SMITH - Chairman
BOB STUMP
BOB BURNS
DOUG LITTLE
TOM FORESE

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AZ CORP COMMISSION
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Arizona Corporation Commission

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IN THE MATTER OF THE APPLICATION OF
TONGO BASIN WATER CO., INC. FOR
APPROVAL OF AN ADJUSTMENT IN THE
EXISTING RATES CHARGED BY THE
COMPANY.

DOCKET NO. W-03515A-14-0310

PROCEDURAL ORDER**BY THE COMMISSION:**

On August 21, 2014, Tonto Basin Water Company, Inc. ("Tonto Basin" or "Company") filed with the Arizona Corporation Commission ("Commission") an application for a rate increase based on a test year ended June 30, 2014.

On August 26, 2014 and September 10, 2014, Tonto Basin filed supplements to its rate application.

On September 22, 2014, the Commission's Utilities Division ("Staff") filed a Letter of Deficiency.

On October 7, 2014, Tonto Basin filed an additional supplement to its rate application.

On October 10, 2014, Staff filed a Letter of Sufficiency indicating that the Company's application met the sufficiency requirements of Arizona Administrative Code ("A.A.C.") R14-2-103, and classifying Tonto Basin as a Class C Utility. The Letter of Sufficiency stated that a Procedural Order would be issued defining filing dates and would include a hearing.

On October 20, 2014, Brooke Utilities Inc. ("Brooke") filed an Application for Intervention.

On October 28, 2014, the Company filed an objection to Brooke's intervention.

On October 29, 2014, Tonto Creek Trail RV Park, Inc., a customer of the Company, filed a Motion to Intervene.

On November 3, 2014, Brooke filed a Response to the Company's objection to its Application

1 for Intervention.

2 On November 7, 2014, a Rate Case Procedural Order was issued setting a hearing and
3 associated procedural deadlines, and granting intervention to Tonto Creek Trail RV Park, Inc.

4 On November 14, 2014, Brooke filed a Request for Extension to File Supplemental
5 Application to Intervene, requesting a revised filing deadline of November 24, 2014.

6 On December 11, 2014, Tonto Basin filed a Request to Modify Procedural Schedule
7 ("Request"). Therein, the Company asked that the procedural schedule set by the November 7, 2014
8 Rate Case Procedural Order be modified to (1) eliminate the dates and requirements for prefiled
9 testimony; (2) eliminate the requirement for public notice ordered by the Rate Case Procedural Order;
10 and (3) provide all parties an opportunity to request a procedural conference should the parties later
11 determine that issues in dispute require a different procedural schedule. In the alternative, the
12 Company requested that a procedural conference be scheduled for the purpose of discussing an
13 alternative procedural schedule. The Company indicated that it failed to provide notice of the rate
14 application and hearing as directed in the Rate Case Procedural Order.

15 On December 19, 2014, Staff filed a Response to the Request. Staff stated that it had no
16 objection to elimination of prefiled testimony requirements. Staff further stated that in light of the
17 new utility classifications that are to take effect in 2015, the size of the Company, and the nature of
18 the rate request, Staff would have no objection to proceeding without a hearing in this docket, but for
19 the fact that because the Company's test-year revenues are greater than the statutory \$250,000
20 threshold, A.R.S. § 40-250(A) appears to require a hearing. Staff stated that public notice of the
21 hearing is therefore appropriate, and that Staff did not object to a procedural conference for the
22 purpose of discussing an appropriate procedural schedule.

23 On December 22, 2014, a Procedural Order was issued setting a procedural conference for the
24 purpose of discussing the Company's proposed alternative procedural schedule for this matter, and
25 addressing the Company's noncompliance with the Rate Case Procedural Order.

26 The December 22, 2014 Procedural Order stated that Brooke's request for an extension of
27 time was reasonable, and extended the deadline for Brooke to file a supplement to its Application to
28 Intervene to January 6, 2015. The Procedural Order also stated that if Brooke is granted intervention,

1 Brooke must either be represented by counsel, or must file evidence of a board resolution authorizing
2 a specifically named officer of the corporation to represent it.¹

3 On January 8, 2015, the procedural conference convened as scheduled. Tonto Basin and Staff
4 appeared through counsel. Intervenor Tonto Creek Trail RV Park, Inc. did not appear.

5 Tonto Basin requested that the filing deadlines for surrebuttal testimony by Staff and
6 Intervenor and rejoinder testimony by the Company be eliminated; stated that the Company is
7 amenable to an extension of the intervention deadline; and stated that the Company can publish
8 notice by January 16, 2015. Staff agreed with Tonto Basin's request.

9 Tonto Basin's request made at the procedural conference is reasonable. The requirement for
10 parties to prefile surrebuttal testimony and rejoinder testimony should be waived. The deadline for
11 intervention in this matter should be extended to February 17, 2015. Tonto Basin should be ordered
12 to mail and publish the notice appearing in the Rate Case Procedural Order by January 20, 2015, with
13 the exception that the intervention deadline shall be stated as February 15, 2015. All other
14 requirements of the Rate Case Procedural Order should remain in effect.

15 Because the requirement for the prefiling of surrebuttal and rejoinder testimony is being
16 waived, all parties should be directed to strictly comply with the requirement in the Rate Case
17 Procedural Order that **any substantive corrections, revisions, or supplements to prefiled**
18 **testimony**, with the exception of rejoinder testimony, **shall be reduced to writing and filed no later**
19 **than five calendar days before the witness is scheduled to testify.** This is necessary to ensure that
20 any changes to the parties' positions between the time testimony is prefiled and the date of the
21 hearing will be made known in the docket prior to the hearing.

22 IT IS THEREFORE ORDERED that requirement for parties to prefile surrebuttal testimony
23 and rejoinder testimony as set forth in the Rate Case Procedural Order is hereby waived for all
24 parties.

25 _____
26 ¹ If a corporation is not represented by an attorney authorized to practice law in Arizona in a proceeding before the
27 Commission, an officer of the corporation may represent the entity as long as the board of directors has authorized such
28 person to represent it in the matter and such representation is not the person's primary duty to the entity, but secondary or
incidental to other duties relating to the management or operation of the entity, and such person is not receiving separate
or additional compensation for such representation. See Arizona Supreme Court Rule 31(d)(11). The Commission
requires evidence of board authorization.

1 IT IS FURTHER ORDERED that all parties shall strictly comply with the requirement in the
2 Rate Case Procedural Order that **any substantive corrections, revisions, or supplements to**
3 **prefiled testimony**, with the exception of rejoinder testimony, **shall be reduced to writing and filed**
4 **no later than five calendar days before the witness is scheduled to testify.** This is necessary in
5 order to make known in the docket prior to the hearing any changes to the parties' positions between
6 the time testimony is prefiled and the date of the hearing.

7 IT IS FURTHER ORDERED that the **deadline for intervention** in this matter is hereby
8 **extended to February 17, 2015.**

9 IT IS FURTHER ORDERED that Tonto Basin shall, **by January 20, 2015, send** a copy of
10 the notice appearing in the Rate Case Procedural Order, **with the exception that the intervention**
11 **deadline shall be stated as February 15, 2015,** to each of its current customers by First Class U.S.
12 Mail; and shall, **on or before January 20, 2015, cause to have the same notice published** in a
13 newspaper of general circulation in its service territory.

14 IT IS FURTHER ORDERED that Tonto Basin shall, **by January 30, 2015, file certification**
15 **of mailing and publication** of the required notice.

16 IT IS FURTHER ORDERED that notice shall be deemed complete upon mailing and
17 publication, notwithstanding the failure of an individual to read or receive the notice.

18 IT IS FURTHER ORDERED that the Ex Parte Rule (A.A.C. R14-3-113 - Unauthorized
19 Communications) applies to this proceeding and shall remain in effect until the Commission's
20 Decision in this matter is final and non-appealable.

21 IT IS FURTHER ORDERED that all parties must comply with Arizona Supreme Court Rules
22 31, 38 and 42, and A.R.S. § 40-243 with respect to practice of law and admission *pro hac vice*.

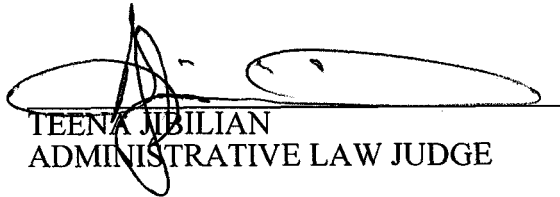
23 IT IS FURTHER ORDERED that withdrawal of representation must be made in compliance
24 with A.A.C. R14-3-104(E) and Rule 1.16 of the Rules of Professional Conduct (under Arizona
25 Supreme Court Rule 42). Representation before the Commission includes appearances at all hearings
26 and procedural conferences, as well as all Open Meetings for which the matter is scheduled for
27 discussion unless counsel has previously been granted permission to withdraw by the Administrative
28 Law Judge or the Commission.

1 IT IS FURTHER ORDERED that the time periods specified herein shall not be extended
2 pursuant to Rule 6(a) or (e) of the Rules of Civil Procedure.

3 IT IS FURTHER ORDERED that the Administrative Law Judge may rescind, alter, amend,
4 or waive any portion of this Procedural Order either by subsequent Procedural Order or by ruling at
5 hearing.

6 DATED this 8th day of January, 2015.

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TEENA JIBILIAN
ADMINISTRATIVE LAW JUDGE

Copies of the foregoing mailed/delivered
this 8th day of January, 2015 to:

James Williamson, President
Tonto Basin Water Company, Inc.
JW Water Holdings, LLC
P.O. Box 200595
Denver, CO 80220

Pending Intervention

Brooke Utilities, Inc.
PO BOX 82218
Bakersfield, CA 93380

Tonto Creek Trail RV Park, Inc.
Gary & Margaret Lantagne, Owners
PO BOX 669
Tonto Basin, AZ 85553

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